

# HOUSE BILL No. 1245

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2; IC 31-19.

**Synopsis:** Release of pre-adoptive sibling information. Repeals and relocates language concerning requests for information about pre-adoptive siblings. Allows requests for and requires, under certain circumstances, release of information concerning pre-adoptive siblings for any adoption. (Current law allows requests for and requires, under certain circumstances, release of information only for adoptions that are filed after December 31, 1993.)

**Effective:** July 1, 2009.

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**Herrell**

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January 12, 2009, read first time and referred to Committee on Public Policy.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1245

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 31-9-2-93 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 93. "Pre-adoptive  
3 sibling", for purposes of:  
4 (1) IC 31-19-18;  
5 (2) IC 31-19-16.5; and  
6 ~~(3) IC 31-19-25;~~  
7 **(3) IC 31-19-25.5;**  
8 means a sibling of an adoptee who is born before the date that the  
9 adoptee's adoption is finalized.  
10 SECTION 2. IC 31-9-2-121 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 121. "State registrar",  
12 for purposes of IC 31-19-18 through ~~IC 31-19-25~~, **IC 31-19-25.5**,  
13 means the person who:  
14 (1) is in charge of the division of the state department of health  
15 that administers the system of vital records; and  
16 (2) has charge of the files and records pertaining to vital records.  
17 SECTION 3. IC 31-19-18-4 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The state  
 2 registrar shall publicize the availability of the adoption history  
 3 information, including the availability of the information under:

4 (1) this chapter and IC 31-19-19 through IC 31-19-24; ~~and~~

5 (2) IC 31-19-25; ~~and~~

6 **(3) IC 31-19-25.5.**

7 (b) The state registrar's publicity efforts must include periodic  
 8 public service announcements regarding the availability of adoption  
 9 history information.

10 SECTION 4. IC 31-19-19-2, AS AMENDED BY P.L.145-2006,  
 11 SECTION 254, IS AMENDED TO READ AS FOLLOWS  
 12 [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) All files and records  
 13 pertaining to the adoption proceedings in:

14 (1) the county office of family and children;

15 (2) the department; or

16 (3) any of the licensed child placing agencies;

17 are confidential and open to inspection only as provided in  
 18 IC 31-19-13-2(2), IC 31-19-17, ~~or~~ IC 31-19-25, **or IC 31-19-25.5.**

19 (b) The files and records described in subsection (a), including  
 20 investigation records under IC 31-19-8-5 (or IC 31-3-1-4 before its  
 21 repeal):

22 (1) are open to the inspection of the court hearing the petition for  
 23 adoption; and

24 (2) on order of the court, may be:

25 (A) introduced into evidence; and

26 (B) made a part of the record;

27 in the adoption proceeding.

28 SECTION 5. IC 31-19-19-4, AS AMENDED BY P.L.145-2006,  
 29 SECTION 255, IS AMENDED TO READ AS FOLLOWS  
 30 [EFFECTIVE JULY 1, 2009]: Sec. 4. All papers, records, and  
 31 information pertaining to the adoption, whether part of:

32 (1) the permanent record of the court; or

33 (2) a file in:

34 (A) the division of vital records;

35 (B) the department or county office of family and children;

36 (C) a licensed child placing agency; or

37 (D) a professional health care provider (as defined in  
 38 IC 34-6-2-117);

39 are confidential and may be disclosed only in accordance with  
 40 IC 31-19-17, this chapter, ~~or~~ IC 31-19-25, **or IC 31-19-25.5.**

41 SECTION 6. IC 31-19-19-5 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) An employer or

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any person administering adoption records who recklessly, knowingly, or intentionally:

(1) discloses any confidential information relating to any adoption except as provided in:

(A) this chapter or IC 31-19-20 through IC 31-19-24; ~~or~~

(B) IC 31-19-25; or

**(C) IC 31-19-25.5; or**

(2) allows an employee to disclose any confidential information relating to any adoption except as provided in this chapter; commits a Class A misdemeanor.

(b) If a public employee commits a violation described in subsection (a), the violation is cause for discharge.

SECTION 7. IC 31-19-22-2, AS AMENDED BY P.L.145-2006, SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **Except as provided in IC 31-19-25.5**, the state registrar, the department, a county office of family and children, a licensed child placing agency, a professional health care provider (as defined in IC 34-6-2-117), and a court shall release identifying information in the entity's possession only if:

(1) the information is requested by a person described in IC 31-19-18-2(a); and

(2) the following persons have submitted a written consent under IC 31-19-21 (or IC 31-3-4-27 before its repeal) to the state registrar that allows the release of identifying information to the person requesting the information:

(A) The adult adoptee.

(B) A birth parent.

SECTION 8. IC 31-19-22-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. This chapter does not prohibit an adoptee who is at least twenty-one (21) years of age from having access to identifying information as provided by IC 31-19-25 **and IC 31-19-25.5**.

SECTION 9. IC 31-19-24-3, AS AMENDED BY P.L.145-2006, SECTION 259, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Whenever the court appoints a confidential intermediary under section 2(2) of this chapter, the court shall do the following:

(1) Consider:

(A) the highly emotional and personal issues relating to adoption;

(B) the privacy rights of both birth parents and adoptees;

(C) the reasons the medical, identifying, or nonidentifying

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information is being sought under section 1 of this chapter;  
and

(D) any irreparable harm to a birth parent, an adoptee, or both,  
that may arise if appropriate consideration is not given to the  
issues described in clauses (A) through (C).

(2) Provide the confidential intermediary with an order  
authorizing the confidential intermediary to search certain records  
that may include:

(A) the division of public health statistics;

(B) the department or county office of family and children;

(C) any licensed child placing agency; or

(D) any professional health care provider (as defined in  
IC 34-6-2-117).

An order under this subdivision must specify the information to  
be sought by the confidential intermediary.

(3) Specify the direct contact, if any, that a confidential  
intermediary may have with any person from whom the medical,  
identifying, or nonidentifying information is being sought, such  
as providing that the confidential intermediary may only inform  
the person of the existence of the adoption history program  
administered by the state registrar under this chapter, ~~and~~  
**IC 31-19-25, and IC 31-19-25.5.**

(4) Specify the limitations, if any, that the court considers  
necessary to prevent the confidential intermediary's search under  
this chapter from resulting in harm to a birth parent or an adoptee.

(5) Require the confidential intermediary to affirm under oath that  
the confidential intermediary agrees to act in good faith and  
perform its responsibilities in accordance with sections 2 through  
11 of this chapter.

(6) Instruct the confidential intermediary to act as quickly as  
possible.

SECTION 10. IC 31-19-25-2, AS AMENDED BY P.L.145-2006,  
SECTION 260, IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2009]: Sec. 2. (a) An adoptee who is at least  
twenty-one (21) years of age may request identifying information by  
submitting a written request to the state registrar.

(b) Except as provided in sections 3 through ~~10~~ **5** of this chapter  
**and IC 31-19-25.5**, upon a request for the release of identifying  
information under subsection (a):

(1) the state registrar;

(2) the department;

(3) a county office of family and children;

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- (4) a licensed child placing agency;
- (5) a professional health care provider (as defined in IC 34-6-2-117);
- (6) the attorney who arranged the adoption; and
- (7) a court;

shall release identifying information in the possession of the registrar, agency, professional health care provider, or court to an adoptee.

SECTION 11. IC 31-19-25.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**Chapter 25.5. Requests for Information Concerning Pre-Adoptive Siblings**

**Sec. 1. An adoptee who is at least twenty-one (21) years of age or a pre-adoptive sibling who is at least twenty-one (21) years of age may submit a written request to the state registrar:**

- (1) stating an interest in being reunited with any pre-adoptive siblings; and
- (2) authorizing the state registrar to release the name and present location of the person submitting the request to any pre-adoptive siblings who make similar inquiries.

**Sec. 2. (a) If:**

- (1) an adoptee who is at least twenty-one (21) years of age; or
- (2) a pre-adoptive sibling who is at least twenty-one (21) years of age;

expresses a desire to be reunited with a pre-adoptive sibling under section 1 of this chapter, the state registrar shall determine whether the requesting person's pre-adoptive sibling has made a similar inquiry.

(b) If the pre-adoptive sibling has previously authorized a release of information concerning the sibling's identity under section 1 of this chapter, the state registrar shall release the pre-adoptive sibling's name and present location to each requesting person.

**Sec. 3. (a) If an adoptee who is at least twenty-one (21) years of age or a pre-adoptive sibling who is at least twenty-one (21) years of age submits a written request to be reunited with a pre-adoptive sibling under section 1 of this chapter but the pre-adoptive sibling has not made a similar inquiry, the state registrar shall:**

- (1) search the sealed adoption records for information concerning the pre-adoptive sibling; and
- (2) if possible, contact and advise the sibling of the request unless the sibling is less than twenty-one (21) years of age.

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(b) If the state registrar locates a sibling who is at least twenty-one (21) years of age, the contacted sibling shall make the final decision as to whether to release the sibling's name and present location to the requesting person.

(c) If the state registrar locates a sibling who is less than twenty-one (21) years of age, the state registrar shall contact the:

(1) sibling's birth parents if the sibling has not been adopted;  
or

(2) sibling's adoptive parents if the sibling has been adopted; for the final determination regarding release of the sibling's name and present location to the requesting person.

(d) The state registrar shall notify the requesting person whenever a sibling has been located, but may not release information about the sibling's identity or present location without authorization under this section.

(e) If the sibling is deceased or cannot be identified or located under this section, the state registrar shall notify the requesting party, but may not release any information that would tend to identify the sibling.

(f) In an attempt to discover the identity and present location of a pre-adoptive sibling, the state registrar shall receive, upon request, any available adoptive information regarding the sibling's identity or location that is in the possession of any of the following:

- (1) The state division of vital records.
- (2) The county office of family and children.
- (3) A licensed child placing agency.
- (4) A professional health care provider (as defined in IC 34-6-2-117).
- (5) The department.

Sec. 4. (a) The adoptive parents of an adoptee who is less than twenty-one (21) years of age may submit a written request for information concerning the identity and present location of any pre-adoptive siblings of the adoptee.

(b) The state registrar shall release information concerning the name and present location of a pre-adoptive sibling to the adoptive parents if the pre-adoptive sibling submitted a written request authorizing the release of the information under section 1 of this chapter.

(c) If a mutual inquiry has not been made under section 1 of this chapter, the state registrar shall do the following:

- (1) Perform the duties described by section 3 of this chapter.
- (2) Release information to the adoptive parents only to the

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1 extent that information may be released to a requesting  
2 person under section 3 of this chapter.

3 Sec. 5. A request or consent submitted under section 1, 3, or 4 of  
4 this chapter may be withdrawn in a signed writing.

5 Sec. 6. The state registrar shall provide for the storage and  
6 indexing of requests under this chapter.

7 Sec. 7. The state registrar may contact a person who submits a  
8 request form that is incorrectly or incompletely executed to inform  
9 the person regarding the error in the execution of the form.

10 Sec. 8. The following persons may charge a reasonable fee for  
11 actual expenses incurred in complying with this chapter:

- 12 (1) A licensed child placing agency.
- 13 (2) The court.
- 14 (3) The department.
- 15 (4) A county office of family and children.
- 16 (5) A professional health care provider.
- 17 (6) The state department of health.

18 Sec. 9. The state registrar:

- 19 (1) may adopt rules under IC 4-22-2; and
- 20 (2) shall prescribe any forms necessary;

21 to implement this chapter.

22 SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE  
23 JULY 1, 2009]: IC 31-19-25-6; IC 31-19-25-7; IC 31-19-25-8;  
24 IC 31-19-25-9; IC 31-19-25-10.

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